

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

JASON WILLIAMS,

Plaintiff,

v.

ROGER E. WALKER, JR., et al.,

Defendants.

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Case No. 3:07-cv-811 GPM

ORDER

Now pending before the Court is Plaintiff Jason Williams's motion asking for reconsideration of the Court's order setting a deadline for discovery regarding the question of exhaustion of administrative remedies and for subpoenas (Doc. 40). For the reasons set forth below, this motion is **DENIED in part and GRANTED in part**.

Plaintiff argues that the 45 days the Court granted the parties to conduct discovery on the question of exhaustion of administrative remedies is insufficient because he must obtain the necessary documents by subpoena. Discovery required prior to the Court's hearing on exhaustion is limited to copies of the grievances and grievance appeals. Other documentary evidence will not be necessary. Plaintiff should be able to obtain copies of the grievances and grievance appeals through internal prison requests or by making a discovery request of the Defendants for the documents. The Court believes that 45 days--in addition to the 30 days Plaintiff already had under the local rules to respond to the motion for summary judgment--is sufficient additional time for Plaintiff to obtain these documents. Plaintiff is reminded that he should not conduct discovery on the substantive issues raised in the complaint. If, after the hearing, Plaintiff is found to have exhausted his administrative remedies prior to filing suit, the Court will then set a schedule for merits discovery. Accordingly, Plaintiff's request for additional time is **DENIED**.

Plaintiff also requests that the Court provide him with subpoenas. As noted above, Plaintiff should be able to obtain copies of the grievances by other means. To the extent that he cannot, he is entitled to subpoena the documents under Fed. R. Civ. P. 45. Thus, Plaintiff's request for subpoenas is **GRANTED**. The Clerk of Court is **DIRECTED** to issue ten subpoenas forms to Plaintiff. It is the Plaintiff's responsibility to serve the subpoena on the appropriate person, as provided by Rule 45(b).

IT IS SO ORDERED.

DATED: April 29, 2009

s/ Donald G. Wilkerson
DONALD G. WILKERSON
United States Magistrate Judge